CHIEF SECRETARIAT

(General Administration Department)

Dated 29th April 1974.

No. GAD 2 INS 74. The final Inter State Seniority List of Non-Gazetted Officers of the Department of Agriculture in the cadres of Agricultural Assistants (Field Assistants and Fieldmen) Categories II and III was published in accordance with the decisions of the Government of India in Part III-1 of the *Mysore Gazette* dated 19th October 1972 under Notification No. GAD 13 INS 71, dated 16th September 1972.

Aggrieved by the equation of posts decided by the Government of India, Sri V.S. Yadawannawar an allottee from ex-Bombay filed Writ Petition No. 518/73 in the High Court of Karnataka. The High Court in their judgement dated 29th November 1973 quashed the ranking assigned to the officials included in Category II and III and directed the Central Government to re-examine the question of equation of posts. The judgement of High Court is annexed.

In accordance with the advise of the Government of India, the equation of posts as was in Category II and III are proposed to be equated together as indicated below :—

Agricultural Assistant, Bombay ...	55-140
Fieldman, Mysore ...	30-60
Compost Demonstrator, Mysore ...	30-60
Fieldman, Mysore ...	45-60
Agricultural Assistant, Bombay ...	55-85
Fieldman, Hyderabad ...	50-90
Seed Supervisor, Hyderabad ...	50-90
Surveyor, Hyderabad ...	50-90
Surveying Fieldman, Hyderabad ...	50-90
Head Gardner, Hyderabad ...	50-90
Weighman, Hyderabad ...	42½-65
Fieldman, Madras ...	45-60
Agricultural Inspector, Coorg ...	55-85
Fieldman, Coorg ...	40-60
Field Assistant, Coorg ...	55-85

Representations in terms of the judgment of the High Court and regarding the equation of posts proposed, may be submitted in six sets addressed to the Secretary to Government of India, Department of Personnel and A.R., Cabinet Secretariat, North Block, New Delhi through the Director of Agriculture in Karnataka Bangalore within one month from the date of publication in the next issue of the Gazette.

By Order and in the name of the Governor of Karnataka

B. P. Patil,
Dy. Secy. to Govt., General Administration Department (Integration).

IN THE HIGH COURT OF KARNATAKA AT BANGALORE.

Dated the 29th day of November 1973

Befor

THE HON'BLE MR. JUSTICE U.S. MALIMATH

Writ Petition No. 518 of 1973.

V. S. Yadawannawar, S/o Sangappa Karibasappa, aged 43 years, Field Assistant, Taluka and District Bijapur. *Petitioner.*

(By Sri R. U. Goulay)

1 The State of Mysore by its Secretary, Forest and Agriculture Department, Vidhana Soudha, Bangalore.

2 The Union of India by its Secretariat, Department of Personnel Cabinet Secretariat, North Block, New Delhi.

3 The Director of Agriculture in Mysore, Bangalore.

4 P H Patil, Gram Sevak, Yaragatti.

5 C M Kori, Gram Sevak, Savadatti.

6 B V Hukeri, Agricultural Assistant, Dharwar.

7 R G Kotur, Agricultural Assistant (Cotton), Sirahatti.

8 B D Bhosle, Agricultural Assistant (Cotton) Davangere.

9 M A Shetti, Agricultural Assistant (SC) Chikkod

10 I A Kadapur, Gramsevak, Manvi

11 C B Hiremath, Agricultural Assistant, A. C. Dharwar.

12 M P Dyamannavar, Agricultural Assistant, Agricultural College, Dharwar.

13 J R Moharir, Agricultural Extension Officer, Hubli.

14 V R Pura Naik, Gramasevak, Shirahatti

15 A J Khan, Agricultural Assistant, A. R. S. Sankeshwar.

16 K K Chandapur, Agricultural Assistant, (Cotton) Chitradurga.

17 Same as Sl.No. 15

18 S B Budihal, Agricultural Assistant (Cotton) Manvi.

19 S G Bhat, Agricultural Assistant (SC) Gulbarga

20 S P Itagi, Agricultural Assistant, (Cotton) Ranebennur.

21 S B Tippannavar, Agricultural Assistant (SC), Bijapur.

22 N B Patil, Agricultural Assistant (Cotton), Naragund.

23 S P Gadennavar, Agricultural Assistant (Cotton), Athani.

24 S K Golappanavar, Gramsevak, Motebennur

25 P Y Bagali, Agricultural Assistant (AS), Bagalkot.

26 V S Prabhu, Agricultural Assistant (AS), Arabhavi.

27 N C Khandkule, Agricultural Assistant (SC), Dharwar.

28 P B Kulkarni, Agricultural Assistant (SC), Bailhongal.

29 A M Digagur, Agricultural Assistant (Cotton), Hubli.

30 K Y Patil, Agricultural Assistant (Cotton), Hubli.

31 V P Badakar, Agricultural Assistant (AS), Kumta.

32 B B Chargi, Agricultural Assistant (Cotton), Annigere.

33 F S Rudgi, Agricultural Assistant (Cotton), Dharwar.

34 R C Aralelimath, Agricultural Assistant (Cotton), Gadag.

35 G P Bhagavat, Agricultural Assistant (SC), Dharwar.

36 S R Upadya, Agricultural Assistant (SC), Dharwar.

37 K V Bannur, Agricultural Assistant (AS), Bagalkot.

38 D V Hegade, Agricultural Extension Officer, Sirsi.

39 P P Naik, Agricultural Assistant (SC), Gulbarga

40 K R Annigeri, Agricultural Assistant (SC), Manvi.

41 I B Bugati, Gramsevak, Savadatti

42 G A Muradande, Agricultural Extension Officer (AS), Malgi.

43 N R Adakoli, Agricultural Assistant (AS), Malgi.

44 H U Hugar, Gramasevak. Siggav

45 S G Desai, Agricultural Assistant (Cotton), Bailhongal.

46 M G Sangaramath, Agricultural Assistant (Cotton), Naragund.

(By Sri K S Puttaswamy, I Additional Government Advocate, for Respondents 1 and 3; Sri M Papanna, Junior Central Government Standing Counsel for Respondent-2).

Writ Petition under Article 226 of the Constitution of India with an affidavit praying that in the circumstances stated therein this Court may be pleased to direct to equate the post held by the petitioners in accordance with the protection under Section 115 (7) of States Reorganisation Act, 1956 etc.

This writ petition coming on for hearing this day, the Court made the following:

ORDER

The petitioner is an allottee from the former State of Bombay. He was appointed as a Field Kamagar on the 1st of June 1947 in the Department of Agriculture. The designation of the post was later on changed to that of Agricultural Assistants. The petitioner was appointed in the scale of Rs. 55-85. Those who were in the scale of Rs. 55-85 were described as Grade III Agricultural Assistants. There were also Agricultural Assistants in the former State of Bombay who were appointed in the scale of Rs. 55-140 They were described as Agricultural Assistants Grade II The final Inter State Seniority list was published under Notification dated 16th September 1972 in the *Mysore Gazette*, dated 19th October 1972. We are concerned in this writ petition with the equation of posts falling under Categories II and III Annexure I in the aforesaid Notification contains the statement showing the equation of posts Category II includes Agricultural Assistants of Bombay in the grade of Rs. 55-140 were described as Grade II Agricultural Assistant in the former State of Bombay. Category III includes several posts of different integrated areas including the posts of Agricultural Assistants of Bombay in the scale of Rs. 55-85 who were described as Agricultural Assistants in Grade III. It is on the basis of the date of continuous officiation the equated cadre that rankings have been assigned in the seniority lists in Categories II and III. The petitioner's name has been included in Category III at Sl. No 228 Respondents-4 to 46 who were also allottes from the former State of Bombay were holding the posts of Agricultural Assistants in the scale of Rs 55-140. Their names have been included in Cotegory II. The respondents 4 to 46 joined service later than the petitioner The petitioner has in this writ petition, challenged the equation of posts of Agricultural Assistants of Bombay in the scale of Rs 55-85 and Rs. 55-140 included in Categories II and III in the impugned Notification of the Central Government dated 16th September 1972.

2. The contention of Shri R.U. Goulay, learned counsel for the petitioner's that though the posts of Agricultural Assistants in the scales of Rs 55-140 and Rs. 55-85 were described as Grade II Agricultural Assistants and Grade III Agricultural Assistants respectively, for the purpose of determination of relevant seniority, they were required to be treated as one unit and that their seniority was required to be determined solely on the basis of the date of appointment as Agricultural Assistants irrespective of the scales given to them on their appointment. That being the position, it was submitted that the Agricultural Assistants Grade II and III of the former State of Bombay in the scale of Rs. 55-140 and Rs. 55-85 had to be included in one category in the final inter-state seniority list prepared by the Central Government and that it was not open to the Central Government to include only the Agricultural Assistants in Grade II in the scale of Rs. 55-140 in the higher Category II. According to Shri Goulay all Agricultural Assistants of the former State of Bombay whether they were appointed in the scale of Rs 55-140 or in the scale of Rs. 55 85 are all entitled to be included in Category II having regard to the four principles enunciated at the conference of the Chief Secretaries which have acquired statutory force. In support of this submission of his, reliance was placed on letter 10th December 1954 from the Assistant Secretary to the Government of Bombay

gricultural and Forest Department, to the Director f Agricultural, Poona-1. Bombay State, Exhibit-A. he same reads as follows.—

> "Your view that though the Agricultural Assistants in Soil Conservation Section are initially taken up in the Grade of Rs. 55-3-85 EB-4-125-5—140 and Agricultural Assistants in the other section are taken up in the grade of Rs. 55—3—85 their seniority should be fixed strictly according to the date of appointment is correct.
>
> Your action in preparing the gradation list of Agricultural Assistants on the basis in anticipation of Government sanction is approved.

This letter indicated that in the Department of Agriculture of the former State of Bombay, there were Agricultural Assistants who were appointed in the scale of Rs. 55-140 and, there were also Agricultural Assistants. It also indicates that the Agricultural Assistants in the Soil Conservation Section were appointed in the Scale of Rs. 55—140 and that the Agricultural Assistants in other Sections of the Agricultural Department were appointed in the cadre of Rs. 55—85. The principles indicated in the letter for determining the inter-se-seniority between the Agricultural Assistants in the scale of Rs. 55—85 and the Agricultural Assistants in the scale of Rs. 55-140 is that the inter-se-seniority of these officials should be fixed strictly according to the date of appointment. It, therefore, follows that the appointment in the higher scale of Rs. 55—140 or in the lower scale of Rs. 55—85 had no relevance so for as the determination of interte-se-senioriry between the Agricultural Assistant in the scale of Rs. 55—140 and those in the scale of Rs. 55—85 is concerned. Though *prima facie* the letter dated 10th December 1954, was written in the context of determination of seniority between the Agricultural Assistants in the grade of Rs. 55—140 and those Agricultural Assistants in the grade of Rs. 55—85 it is a material which undoubtedly has bearing on the consideration of the question as to whether the posts of Agricultural Assistants in the scale of Rs. 55—140 and the posts of Agricultural Assistants in the grade of Rs. 55—85 in the former State of Bombay were equivalent posts or not.

3. The scope of judicial review when the equation of posts made by the Central Government under Section 115 of the State Reorganisation Act, is challenged is now well settled by the decision of this Court in Dharamaraj Kamagiriyappa Badvankal *V/s* Union of India and others (1970 (2) Mysore Law Journal, page 184). This Court has, in the said decision, laid down that equation of posts for purpose of determining inter-state seniority is governed by the principles evolved at a meeting of the Chief Secretaries and communicated to all State Governments and that the said principles have acquired statutory force It is further laid down that all the four principles have to be applied to a case before equation of posts can be determined and that where the four principales were not applied, but an alternative made of integration which is opposed to the binding principles is adopted the inter-state list cannot be sustained. In order to exercise its power of judicial review in the matter of equation of posts, the relevant material to be examined is the decision of the Central Government as well as the opinion tendered by the Advisory Committee on the basis of which the Central Government has arrived at its decision. Shri Puttaswamy, learned Additional Government Advocate, placed for my perusal the proceedings of the Advisory Committee as well as the proceedings of the Central Government accepting the recommendation of the Advisory Committee in the matter of equation of of posts and the preparation of the final inter-state seniority list impugned in this writ petition. The relevant portion of those proceedings were read over to me by Shri Puttaswamy in extension.

4. The proceedings of the Advisory Committee and the Central Government indicate that the four principles evolved at the conference of Chief Secretaries have been borne in mind while considering the question of equation of posts But the complaint of Shri Goulay, learned counsel for the petitioner, is that the letter of the Government of Bombay dated 10th December 1954 Exhibit A, referred to above, which has a bearing on the question of equation of posts has not been taken into consideration by the Central Government while dealing the question of equation of posts. He submitted that if that letter was taken into consideration at the time of deciding the question of equation of posts, the Central Government would not have included Agricultural Assistants of the former State of Bombay in the grade of Rs. 55-85 in Catagory III, and they would have necessarily included those officials in Category II. That the letter of 10th December 1954 is a relevant material for the purpose of determing the question of equation of posts cannot be disputed The only question for consideration is whether the Central Government has arrived at a decision after taking into consideration this relevant material Shri Puttaswamy is right when he submits that it is not as though the Advisory Committee and the Central Government were not aware of the existence of the later of the former State of Bombay dated 10th December, 1954, Exhibit A He is also right in his submission that the said letter has, in fact been adverted to in the proceedings of the Advisory Committee as well as the Central Government After looking into the deliberations of the Advisory Committee as well as of the Central Government, I notice that the letter of the Former State of Bombay dated 10th December 1954 Exhibit-A has been taken into consideration in regard to two matters The proceedings indicate that on the date of Reorganisation of States, there was no seniority list of Agricultural Assistants, prepared in the former State of Bombay. It is, therefore, that a request was made to the State of Bombay for furnishing such a list Such a list was prepared and sent to the State Government That list obviously was not prepared following the principle enunciated in the letter of the Government of Bombay dated 10th December, 1954 Exhibit-A. On a further consideration another seniority list prepared following the principle laid down in the letter of the Government dated 10th December 1954, Exhibit-A, was sent by the Government of Bombay (Maharashtra. The Central Government having regard to this background had to decide on the question as to whether the subsequent list sent by the State of Bombay should be accepted as inter-se-seniority list of the allottees from the former State of Bombay as on the date of Reorganisation of States The discussion in the decision of the Central Government to which my attention was drawn indicates that the Central Government was of the opinion that as there was no

seniority list prepared as on the date of Reorganisation of States, the Central Government did not consider it proper to accept this subsequent list prepared and sent by the State of Bombay applying the principal enunciated in the letter of the Government of Bombay dated 10th December 1954. The Central Government took the decision to proceed on the basis that the Inter-se seniority of Agricultural Assistants Grade-II and III in the former State of Bombay should be determined on the basis that those in the higher grade are senior or to those who are in the lower grade, seniority among the officials included in each category being determined on the basis of the date of entry into that particular category. It is obvious that the Central Government has evolved its own principles for determining inter-se-seniority of the allottees from the former State of Bombay as on the date of Reorganisation of States. This was clearly not permissible. If no seniority list as such was prepared in the former State of Bombay, such a seniority list had to be prepared not on the basis of the principles evolved by the Central Government, but on the principles that governed regulation of seniority in the formar State of Bombay prior to the date of Reorganisation of States. There was absolutely no justification whatsoever for not applying the rules or orders that governed regulation of Inter-se-seniority in the former State of Bombay for determining inter-se-seniority list as on 31st October 1956 of the allotees of the former State of Bombay.

5 The only other context in which there is consideration of the letter of the Government of Bombay dated 10th December 1954 Exhibit-A is at the time of considering the representations of persons like J. M. Jantly and others. They are also allottees from the State of Bombay whose names are included in Category II as they were in the grade of Rs. 55-140. But they contended on the basis of the letter of the Government of Bombay dated 10th December 1954 Exhibit-A, that it is not the dates on which they entered the grade of Rs. 55-140 that should be taken into consideration for determining their seniority in Category II, but that the dates on which they actually entered the lower grade of Rs. 55-85 should be taken into account for the purpose assignment of ranking in Category II of the final inter-state seniority list It is in this context that the letter of the 10th December 1954 was considered the claims of Jantly and others were rejected.

6. The discussion of the Advisory Committee as well as the proceedings of the Central Government do not disclose that at the time of arriving at a decision on the question of equation of posts that the letter of the Government of Bombay dated 10th December 1954 Exhibit-A was taken into consideration. In my opinion that was a relevant material bearing on the question of equation of post and as that has not been taken into consideration, the decision of the Central Government on the question of equation of posts of Agricultural Assistants in the former State of Bombay in Grades II and III cannot be sustained. The Central Government should apply its mind to the letter of the Government of Bombay dated 10th December 1954, Exhibit-A, and arrive at a fresh decision on the question of equation of posts of Agricultural Assistants of the former State of Bombay Grades II and III in the scale of Rs. 55-140 and Rs. 55-85 respectively.

7. For the reasons stated above, this writ petition is allowed and the impugned Notification dated 16th September 1972 published in the *Mysore Gazette*, dated 19th October 1972 in so far as it pertains to the equation of posts of Category II and the posts of Agricultural Assistants, Bombay in the scale of Rs. 55-85 included in Category III and the rankings assigned to the officials included in the aforesaid two categories are hereby quashed and a writ in the nature of Mandamus is issued directing respondent 2—the Union of India to re-examine the question of equation of posts and to arrive at a fresh decision on the question of equation after taking into consideration the letter of the Government of Bombay dated 10th December 1954, Exhibit-A and all other relevant materials and after giving an opportunity to all persons likely to be affected thereby and to prepare and published a fresh final inter-state seniority list. Time for compliance six months. No costs.

V. S. MALIMATH,
Judge.

r of Printing, Sty. & Publications at the Govt. Press, B'lore.